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DARREN CHERMACK
9049 PILLSBURY AVENUE SOUTH
BLOOMINGTON, MN 55420

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AUG 25 2005

OFFICE OF PETITIONS

In re Application of :
Darren P. Chermack :
Application No. 10/655,112 :
Filed: September 4, 2003 :
Attorney Docket No. N/A :

ON PETITION

This is a decision on the papers styled, "Petition for re-consideration of the holding of abandonment Under CFR37 1.137," filed August 10, 2005. Please note, petitioner did not specify or indicate if the submission is under 37 CFR 1.137(a) or 37 CFR 1.137(b), nor has any of the required petition fees been submitted. As such, the instant petition has been treated as a petition under 37 CFR 1.181, to withdraw the holding of abandonment.

The petition is **dismissed**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers (Notice) mailed November 28, 2003. The Notice set a period for reply of two (2) months from the mail date of the Notice. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on January 29, 2004. A Notice of Abandonment was mailed on July 14, 2005.

Petitioner asserts non-receipt of the Notice. The showing required to establish non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the non-received Office communication would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See [Withdrawing the Holding of Abandonment When Office Actions Are Not Received](#); Notice 1156 Off. Gaz. Pat. Office 53 (November 16, 1993). For a pro se applicant, equivalent documentary evidence must be submitted.

As the necessary documentary evidence has not been submitted, the petition must be dismissed.

A copy of the Notice, mailed November 28, 2003 is attached. Additionally, information regarding petitions to revive an abandoned application under 37 CFR 1.137(a) or 37 CFR 1.137(b) are attached for petitioner's convenience.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 Box 1450
 Alexandria, VA 22313

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries should be directed to the undersigned at (571) 272-3228.



Edward J. Tannouse
Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy

Attachments:

Copy of Notice to File Corrected Application Papers, mailed November 28, 2003.
Copy of MPEP 711.03(c)
Form PTO/SB/61
Form PTO/SB/64